

The Senate Judiciary Committee offered the following substitute to SB 140:

A BILL TO BE ENTITLED
AN ACT

To amend Article 2 of Chapter 12 of Title 17 of the Official Code of Georgia Annotated, relating to public defenders, so as to change the composition of the circuit public defender selection panels; to change certain provisions about the removal of circuit public defenders; to change the term of certain circuit public defenders; to correct a cross-reference; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2 of Chapter 12 of Title 17 of the Official Code of Georgia Annotated, relating to public defenders, is amended in Code Section 17-12-3, relating to creation and membership of the Georgia Public Defender Standards Council, by revising paragraph (6) of subsection (b) as follows:

"(6) Any vacancy for a member appointed pursuant to paragraph (3) of this subsection shall be the successor to the circuit public defender as set forth in subsection ~~(d)~~ (e) of Code Section 17-12-20."

SECTION 2.

Said article is further amended by revising Code Section 17-12-20, relating to public defender selection panel for each circuit, appointment and removal of circuit public defenders, and vacancies, as follows:

"17-12-20.

(a) There is created in each judicial circuit in ~~the~~ this state a circuit public defender selection panel to be composed of ~~five~~ seven members. The ~~membership shall be composed of one member each appointed by the Governor, the Lieutenant Governor, the Speaker of the House of Representatives, the Chief Justice of the Supreme Court of Georgia, and the chief judge of the superior court of the circuit~~ shall each appoint one member. The Governor shall appoint three members, two of which shall be members of the governing

1 authority of the counties within the judicial circuit for which such member is appointed to
2 serve. ~~Members~~ Other than the county commissioner, members of the circuit public
3 defender selection panel shall be individuals with significant experience working in the
4 criminal justice system or who have demonstrated a strong commitment to the provision
5 of adequate and effective representation of indigent defendants. A prosecuting attorney as
6 defined in paragraph (6) of Code Section 19-13-51, any employee of a prosecuting
7 attorney's office, or an employee of the Prosecuting Attorneys' Council of the State of
8 Georgia shall not serve as a member of the circuit public defender selection panel after July
9 1, 2005. Members of the circuit public defender selection panel shall reside in the judicial
10 circuit in which they serve. The circuit public defender selection panel members shall serve
11 for a term of five years. Any vacancy for an appointed member shall be filled by the
12 appointing authority.

13 (b) By majority vote of its membership, the circuit public defender selection panel shall
14 appoint the circuit public defender in the circuit as provided in this article. The first such
15 appointments shall be made to take office on January 1, 2005, for terms of up to four years.
16 The initial appointments shall be for a term of up to four years. Any circuit public defender
17 whose term expires on or after January 1, 2008, and any circuit public defender appointed
18 after January 1, 2008, shall serve for a term not longer than two years. A circuit public
19 defender may be appointed for successive terms, but may not be reappointed if he or she
20 was removed pursuant to subsection (c) of this Code section or if his or her appointment
21 was rescinded pursuant to subsection (d) of this Code section.

22 (c) A circuit public defender may be removed for cause by a majority vote of the council.

23 (d) A circuit public defender selection panel may convene at any time during its circuit
24 public defender's term of office and by majority vote of its membership adopt a resolution
25 requesting that the council review and act upon any matter where the circuit public
26 defender has acted in a manner which is deemed cause for removal. The resolution shall
27 specify the reason or reasons for the request. The circuit public defender shall be given
28 reasonable notice of the circuit public defender selection panel's intention to act and shall
29 be given the opportunity to appear and present evidence and testimony on his or her behalf.
30 All evidence presented and the findings of the circuit public defender selection panel shall
31 be filed in the superior court clerk's office for the circuit and forwarded to the council
32 within 15 days of the adoption of the resolution. The council shall initiate action on the
33 circuit public defender selection panel's resolution at its next regularly scheduled meeting
34 and take final action within 60 days thereafter. If no final action is taken by the council in
35 such time frame, then the circuit public defender's appointment shall be deemed to be
36 rescinded.

1 ~~(d)~~(e) If a vacancy occurs for the position of circuit public defender, the chief judge of the
2 superior court of the circuit shall appoint an interim circuit public defender to serve until
3 the circuit public defender selection panel has appointed a replacement to serve out the
4 unexpired term of office. The circuit public defender selection panel shall appoint a
5 replacement circuit public defender within three months of the occurring of the vacancy.
6 The replacement circuit public defender shall not be any individual who has been removed
7 by the council pursuant to subsection (c) of this Code section."

8 **SECTION 3.**

9 All laws and parts of laws in conflict with this Act are repealed.